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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2011-704

12 **SANDRA SOFIA MOSQUEDA**
2764 Othello Ave.
13 San Jose, CA 95122
14 **Registered Nurse License No. 315193**

ACCUSATION

Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about March 31, 1980, the Board issued Registered Nurse License Number
23 315193 to Sandra Sofia Mosqueda ("Respondent"). The Registered Nurse License was in full
24 force and effect at all times relevant to the charges brought herein and will expire on April 30,
25 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

STATUTORY AND REGULATORY PROVISIONS

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2761 of the Code states, in relevant part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions."

6. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

7. California Code of Regulations, title 16, section 1443, states:

"As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5."

8. California Code of Regulations, title 16, section 1443.5, provides:

1 "A registered nurse shall be considered to be competent when he/she consistently
2 demonstrates the ability to transfer scientific knowledge from social, biological and physical
3 sciences in applying the nursing process, as follows:

4 "(1) Formulates a nursing diagnosis through observation of the client's physical condition
5 and behavior, and through interpretation of information obtained from the client and others,
6 including the health team.

7 "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and
8 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and
9 for disease prevention and restorative measures.

10 "(3) Performs skills essential to the kind of nursing action to be taken, explains the health
11 treatment to the client and family and teaches the client and family how to care for the client's
12 health needs.

13 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the
14 subordinates and on the preparation and capability needed in the tasks to be delegated, and
15 effectively supervises nursing care being given by subordinates.

16 "(5) Evaluates the effectiveness of the care plan through observation of the client's physical
17 condition and behavior, signs and symptoms of illness, and reactions to treatment and through
18 communication with the client and health team members, and modifies the plan as needed.

19 "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve
20 health care or to change decisions or activities which are against the interests or wishes of the
21 client, and by giving the client the opportunity to make informed decisions about health care
22 before it is provided."

23 9. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
24 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
25 licensee or to render a decision imposing discipline on the license.

26 COSTS

27 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
28 administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Gross Negligence)**

5 11. Respondent is subject to disciplinary action under section 2761, subdivision (a)(1), of
6 the Code, and California Code of Regulations, title 16, section 1442, for gross negligence in that
7 she administered 125 milligrams of Phenergan to a patient when she should have administered
8 only 12.5 milligrams of the medication. The circumstances of Respondent's conduct are as
9 follows:

10 a. On or about February 6, 2009, Respondent was working at the Infusion Unit at Santa
11 Clara Valley Medical Center in San Jose, California. During Respondent's shift on that day, a
12 patient in the Infusion Unit under Respondent's care complained of nausea. A physician ordered
13 that the patient be put on 12.5 milligrams of Phenergan. Respondent administered 125 milligrams
14 of Phenergan to the patient.

15 b. A short time after administering the Phenergan, Respondent checked on the patient and
16 found that she was somnolent. The patient was then transferred to the hospital's Emergency
17 Department where she was monitored for complications from the overdose. The patient
18 eventually recovered from the overdose.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Incompetence)**

21 12. Respondent is subject to disciplinary action under section 2761, subdivision (a)(1), of
22 the Code, and California Code of Regulations, title 16, sections 1443 and 1443.5, for
23 incompetence in that she administered 125 milligrams of Phenergan to a patient when she should
24 have administered only 12.5 milligrams of the medication. The circumstances of Respondent's
25 conduct are set forth above in paragraphs 11.a. and 11.b.

26 **PRAYER**

27 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
28 and that following the hearing, the Board of Registered Nursing issue a decision:

1 1. Revoking or suspending Registered Nurse License Number 315193 issued to Sandra
2 Sofia Mosqueda;

3 2. Ordering Sandra Sofia Mosqueda to pay the Board the reasonable costs of the
4 investigation and enforcement of this case pursuant to Business and Professions Code section
5 125.3;

6 3. Taking such other and further action as deemed necessary and proper.
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8 DATED: 2/10/11



9 *for* LOUISE R. BAILEY, M.ED., RN
10 Executive Officer
11 Board of Registered Nursing
12 Department of Consumer Affairs
13 State of California
14 Complainant

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